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SENATE BILL 659

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO MUNICIPALITIES; PROHIBITING, IN CERTAIN CASES, THE  
POWERS OF MUNICIPALITIES TO CONDEMN PROPERTY OUTSIDE MUNICIPAL  
BOUNDARIES; LIMITING MUNICIPAL JURISDICTION IN CERTAIN  
SITUATIONS; CHANGING ANNEXATION PROCEDURES FOR CERTAIN  
MUNICIPALITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-7-17 NMSA 1978 (being Laws 1965,  
Chapter 300, Section 14-7-17, as amended) is amended to read:

"3-7-17. ANNEXATION--PETITION BY OWNERS OF CONTIGUOUS  
TERRITORY--DUTY OF GOVERNING BODY--ORDINANCE--APPEAL.--

A. Except as provided in Sections 3-7-17.1 and  
3-57-4 NMSA 1978, whenever a petition:

(1) seeks the annexation of territory  
contiguous to a municipality;

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1 (2) is signed by the owners of a majority of  
2 the number of acres in the contiguous territory;

3 (3) is signed by a majority of the owners of  
4 land in the contiguous territory;

5 [~~3~~] (4) is accompanied by a map that shows  
6 the external boundary of the territory proposed to be annexed  
7 and the relationship of the territory proposed to be annexed to  
8 the existing boundary of the municipality; and

9 [~~4~~] (5) is presented to the governing body,  
10 the governing body shall by ordinance express its consent or  
11 rejection to the annexation of such contiguous territory.

12 B. If the ordinance consents to the annexation of  
13 the contiguous territory, a copy of the ordinance, with a copy  
14 of the plat of the territory so annexed, shall be filed in the  
15 office of the county clerk. After the filing, the contiguous  
16 territory is part of the municipality. The clerk of the  
17 municipality shall also send copies of the ordinance annexing  
18 the territory and of the plat of the territory so annexed to  
19 the secretary of finance and administration and to the  
20 secretary of taxation and revenue.

21 C. Within thirty days after the filing of the copy  
22 of the ordinance in the office of the county clerk, any person  
23 owning land within the territory annexed to the municipality  
24 may appeal to the district court questioning the validity of  
25 the annexation proceedings. If no appeal to the district court

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1 is filed within thirty days after the filing of the ordinance  
2 in the office of the county clerk or if the court renders  
3 judgment in favor of the municipality, the annexation shall be  
4 deemed complete."

5 Section 2. Section 3-26-1 NMSA 1978 (being Laws 1965,  
6 Chapter 300, Section 14-25-1, as amended) is amended to read:

7 "3-26-1. SANITARY SEWERS--AUTHORITY TO ACQUIRE--  
8 [~~CONDEMNATION~~] JURISDICTION OVER SYSTEM.--

9 A. In the manner provided in Section 3-23-2 NMSA  
10 1978, a municipality may, within and without the municipality:

11 (1) acquire and maintain facilities for the  
12 collection, treatment and disposal of sewage;

13 (2) [~~condemn~~] acquire private property for the  
14 construction, maintenance and operation of sewer facilities;  
15 and

16 (3) acquire, maintain or contract for [~~or~~  
17 ~~condemn for~~] use as a municipal utility privately owned sewer  
18 facilities used or to be used for the collection, treatment and  
19 disposal of sewage of the municipality or its inhabitants.

20 B. For the purpose of [~~acquiring~~] maintaining  
21 [~~contracting for, condemning~~] or protecting the sewer  
22 facilities, the jurisdiction of the municipality extends to the  
23 territory occupied and served by the sewer facilities. In  
24 exercising its jurisdiction to [~~acquire~~] maintain [~~contract for~~  
25 ~~or condemn~~] and protect the sewer facilities the municipality

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1 shall not act so as to physically isolate and make nonviable  
2 any portion of the sewer facilities, within or without the  
3 municipality.

4 C. ~~[Proceedings to obtain any condemnation~~  
5 ~~authorized in this section shall be in the manner provided by~~  
6 ~~the Eminent Domain Code]~~ In acquiring private property that  
7 lies within the boundaries of the municipality pursuant to this  
8 section, a municipality may exercise the power of eminent  
9 domain pursuant to the procedures of the Eminent Domain Code,  
10 but nothing in this section gives a municipality the right to  
11 condemn property outside the boundaries of the municipality."

12 Section 3. Section 3-27-1 NMSA 1978 (being Laws 1965,  
13 Chapter 300, Section 14-26-1) is amended to read:

14 "3-27-1. POTABLE--AUTHORITY TO ACQUIRE AND OPERATE WATER  
15 FACILITIES.--

16 A. A municipality, within and without the municipal  
17 boundary, may:

18 ~~[A.]~~ (1) acquire water facilities ~~[which]~~ that  
19 may include but are not limited to:

20 ~~[(1)]~~ (a) wells, cisterns and  
21 reservoirs;

22 ~~[(2)]~~ (b) distribution pipes and  
23 ditches;

24 ~~[(3)]~~ (c) pumps;

25 ~~[(4) right]~~ (d) rights of way;

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- 1 (d) other water supplies; and  
2 (e) right-of-way or other necessary

3 ownership for the acquisition of water facilities; ~~[and]~~

4 (2) acquire, maintain or contract for ~~[or~~  
5 ~~condemn for]~~ use as a municipal utility privately owned water  
6 facilities used or to be used for the furnishing and supply of  
7 water to the municipality or its inhabitants; and

8 (3) change the place of diversion of any water  
9 to any place selected by the municipality in order to make the  
10 water available to the municipality.

11 B. For the purposes stated in Section 3-27-3 NMSA  
12 1978, a municipality may take water from any stream, gulch or  
13 spring. If the taking of the water materially interferes with  
14 or impairs the vested right of any person who resides upon the  
15 creek, gulch or stream or does any milling or manufacturing on  
16 the creek, gulch or stream, the municipality shall obtain the  
17 consent of the person with the vested right or, if the proposed  
18 taking of water will occur entirely within the boundaries of  
19 the municipality, acquire the vested right by condemnation and  
20 make full compensation or satisfaction for all damages  
21 occasioned to the person.

22 C. Any person may lawfully convey to any  
23 municipality any water, water right and ditch right or any  
24 interest in any water, water right and ditch right held or  
25 claimed by the grantor. No change or use of the:

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- 1 (1) water;
- 2 (2) water right;
- 3 (3) place of diversion; or
- 4 (4) purpose for which the water or water right

5 was originally acquired by the grantor, shall invalidate the  
6 right of the municipality to use the water or water right.

7 D. ~~[Proceedings to obtain any condemnation~~  
8 ~~authorized in this section shall be in the manner provided by~~  
9 ~~law]~~ In acquiring private property that lies within the  
10 boundaries of the municipality pursuant to this section, a  
11 municipality may exercise the power of eminent domain pursuant  
12 to the procedures of the Eminent Domain Code, but nothing in  
13 this section gives a municipality the right to condemn property  
14 outside the boundaries of the municipality."

15 Section 5. Section 3-27-3 NMSA 1978 (being Laws 1965,  
16 Chapter 300, Section 14-26-3, as amended) is amended to read:

17 "3-27-3. POTABLE--JURISDICTION OVER WATER FACILITIES AND  
18 SOURCE.--For the purpose of [acquiring] maintaining  
19 [contracting for, condemning] or protecting its water  
20 facilities and water from pollution, the jurisdiction of the  
21 municipality extends within and without its boundary to:

22 A. all territory occupied and served by the water  
23 facilities;

24 B. all reservoirs, streams and other sources  
25 supplying the reservoirs and streams; and

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1 C. five miles above the point from which the water  
2 is taken.

3 In exercising its jurisdiction to ~~[acquire]~~ maintain  
4 ~~[contract for or condemn]~~ and protect the water facilities, the  
5 municipality shall not act so as to physically isolate and make  
6 nonviable any portion of the water facilities, within or  
7 without the municipality. The municipality may adopt any  
8 ordinance and regulation necessary to carry out the power  
9 conferred by this section."

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